

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY ZIERKE JR.,

Defendant.

**4:08CR3067**

**MEMORANDUM AND ORDER**

I have previously denied Mr. Zierke's request that I recuse myself noting that no affidavit had been filed as required by 28 U.S.C. § 144 and his allegations of bias or prejudice was insufficient under 28 U.S.C. § 455. Mr. Zierke has now filed an affidavit which I conclude is an attempt to disqualify me under 28 U.S.C. § 455(b)(1). I will refer Mr. Zierke's affidavit in support of recusal (Filing 353) to Chief Judge John M. Gerrard for disposition. I do this out of an abundance of caution, although I believe the affidavit is neither timely nor sufficient.

IT IS ORDERED that Mr. Zierke's affidavit (Filing 353) is referred to Chief Judge John M. Gerrard for disposition. If Chief Judge Gerrard finds there is no basis for recusal, the case will return to me for ruling on that portion of Filing 353 that I addressed in Filing 350.

Dated this 4th day of March, 2021.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge